



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

W. Tayloe Murphy, Jr.
Secretary of Natural Resources

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Robert G. Burnley
Director

Steven A. Dietrich
Regional Director

STATE AIR POLLUTION CONTROL BOARD ENFORCEMENT ACTION A SPECIAL ORDER BY CONSENT ISSUED TO VOGUE CLEANERS & LAUNDRY

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code § 10.1-1307.D, 10.1-1309, and 10.1-1184, and § 10.1-1316.C, between the State Air Pollution Control Board and Vogue Cleaners & Laundry, for the purpose of resolving certain violations of State Air Pollution Control Laws and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Va. Code" means the Code of Virginia (1950), as amended.
2. "Board" means the State Air Pollution Control Board, a permanent collegial body of the Commonwealth of Virginia as described in Code §§ 10.1-1301 and 10.1-1184
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "Order" means this document, also known as a Consent Order.
6. "Vogue Cleaners & Laundry" means the corporation certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
7. "Facility" means the structure at 3322 Melrose Avenue located in Roanoke, Virginia.

8. "WCRO" means the West Central Regional Office of DEQ, located in Roanoke, Virginia.
9. "O&M" means operations and maintenance.

SECTION C: Findings of Fact and Conclusions of Law

1. Vogue Cleaners & Laundry owns and operates a facility in the Roanoke, Virginia. This facility is the subject to 40 CFR 63 Subpart M, which regulates the usage of Perchloroethylene by the Dry Cleaning Industry.
2. DEQ has noted numerous apparent violations of the Air Pollution Control Law and Regulations. These problems, noted in a Notice of Violation issued by DEQ on May 23, 2001, include:

On April 10, 2001, DEQ staff conducted a Full Compliance Evaluation of the Facility. During this inspection, staff observed the facility's failure to maintain records for the Perc Usage Logs, the Condenser Temperature Logs, and the Leak/Repair Logs.

The observation above was cited under the following Federal Regulation:

40 CFR 63.324 states that each owner or operator of a dry cleaning facility shall submit to the Administrator the following operational data: Yearly Perchloroethylene solvent consumption, the dates when the dry cleaning system components are inspected for leaks, the dates of repair and records of written or verbal orders for repairs, the date and temperature sensor monitoring results to demonstrate compliance with this regulation. This data shall be maintained on site and shall be shown upon request for a period of 5 years.

3. DEQ has noted numerous apparent violations of the Air Pollution Control Law and Regulations. These problems, noted in a Notice of Violation issued by DEQ September 19, 2002, include:
 - A. On August 1, 2002, DEQ staff conducted a Full Compliance Evaluation of the Facility. During this inspection, staff reviewed the Perc Usage, Temperature Logs, and Maintenance records. This review showed the following: the Perc Usage logs, the Temperature logs, and the Maintenance records were not being maintained. The facility provided the Perc Usage records to staff at a later date.
 - B. The facility currently operates a Petroleum Dry Cleaning machine. This machine was observed to be setting idle with the doors ajar, allowing fugitive emissions to escape into the atmosphere. This unit falls below the

regulated size limit of 84 pounds, it remains subject to the proper operating requirements for the facility.

The observations above are cited under the following regulations.

40 CFR 63.324 states that each owner or operator of a dry cleaning facility shall submit to the Administrator the following operational data: Yearly Perchloroethylene solvent consumption, the dates when the dry cleaning system components are inspected for leaks, the dates of repair and records of written or verbal orders for repairs, the date and temperature sensor monitoring results to demonstrate compliance with this regulation. This data shall be maintained on site and shall be shown upon request for a period of 5 years.

Section 9 VAC 5-50-50 of the State Air Pollution Control Board Regulations, states that a stationary source shall record and maintain any data or information in order to determine compliance with an emission standard.

Section 9 VAC 5-80-10 of the State Air Pollution Control Board Regulations states that emissions from the dry cleaning operation shall be minimized by proper operation and maintenance.

3. Vogue Cleaners & Laundry is working with DEQ staff by supplying the Perc Usage logs for the last 12 months of operation.
4. On November 15, 2002, DEQ staff provided Vogue Cleaners & Laundry, by Certified Mail, a Consent Special Order. To date, DEQ staff has not received the signed copies of the Order. Staff had provided Vogue Cleaners & Laundry with a due date of November 28, 2002. DEQ staff has rescinded the thirty percent (30%) reduction in the civil charge and the full civil charge has been reinstated.

SECTION D: Agreement and Order

Accordingly the State Air Pollution Control Board, by virtue of the authority granted it pursuant to Va. Code §§10.1-1309 and 10.1-1316, and after consideration of the factors set forth in Va. Code § 10.1-1186.2, orders Vogue Cleaners & Laundry, and Vogue Cleaners & Laundry agrees, to perform the actions described below and in Appendix A of this Order. In addition, the Board orders Vogue Cleaners & Laundry, and Vogue Cleaners & Laundry voluntarily agrees to pay a civil charge of **\$2,100.00** in settlement of the violations cited in this Order.

Vogue Cleaners shall pay a **\$2,100.00** civil charge. The civil charge shall be paid in four quarterly installments of **\$525.00**. The first monthly installment of the civil charge shall be due no later than 30 days after the effective date of the Order and the civil charge shall be paid in full no later than 12 months after the effective date of the Order. Payments shall be made by check, certified check, money order or cashier's check payable to the "Treasurer of Virginia", delivered to:

Receipts Control
Department of Environmental Quality
Post Office Box 10150
Richmond, Virginia 23240

The payment shall include Vogue Cleaners & Laundry's Federal ID number and shall state that it is being tendered in payment of the civil charges assessed under this Order.

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of Vogue Cleaners & Laundry, for good cause shown by Vogue Cleaners & Laundry, or on its own motion after notice and opportunity to be heard.
2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the Notice of Violation issued to Vogue Cleaners & Laundry by DEQ on September 19, 2002. This Order shall not preclude the Board or the Director from taking any action authorized by law, including but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the facility as may be authorized by law; or (3) taking subsequent action to enforce the Order. This Order shall not preclude appropriate enforcement actions by other federal, state, or local regulatory authorities for matters not addressed herein.
3. For purposes of this Order and subsequent actions with respect to this Order, Vogue Cleaners & Laundry admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. Vogue Cleaners & Laundry consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. Vogue Cleaners & Laundry declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 9-6.14:1 *et seq.*, and the Air Pollution Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by Vogue Cleaners & Laundry to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such

violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.

7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. Vogue Cleaners & Laundry shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. Vogue Cleaners & Laundry shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. Vogue Cleaners & Laundry shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;
 - b. the projected duration of any such delay or noncompliance;
 - c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
 - d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
10. This Order shall become effective upon execution by both the Director or his designee and Vogue Cleaners & Laundry. Notwithstanding the foregoing, Vogue Cleaners & Laundry agrees to be bound by any compliance date, which precedes the effective date of this Order.
11. This Order shall continue in effect until the Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to Vogue Cleaners & Laundry. Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve Vogue Cleaners & Laundry from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

12. By its signature below, Vogue Cleaners & Laundry voluntarily agrees to the issuance of this Order.

And it is so ORDERED this day of JAN. 22, 2003.

Steven A. Dietrich for
Robert G. Burnley, Director
Department of Environmental Quality

Vogue Cleaners & Laundry voluntarily agrees to the issuance of this Order.

By: RN Steele
Date: Jan 16 2003

Commonwealth of Virginia
City/County of Roanoke

The foregoing document was signed and acknowledged before me this 16th day of
JANUARY, 2003, by Roy N. Steele, who is
(name)

President of Vogue Cleaners & Laundry, on behalf of the Corporation.
(title)

Wallace E. Mengler
Notary Public

My commission expires: May 31, 2003.

APPENDIX A

Vogue Cleaners & Laundry shall:

1. Within **30 days** from the effective date of the Order, submit to the DEQ accurate, up to date documentation demonstrating that all operational data is being recorded and maintained in accordance to the Code of Federal Regulations.
2. Within **30 days** from the effective date of the Order, submit to the DEQ accurate, up to date documentation demonstrating that all associated employees have been trained in the proper Operation and Maintenance procedures for all dry cleaning equipment.